

BUYING & SELLING USED CARS IN GERMANY

by Joerg Modellmog

Are you thinking about buying a used car downtown or are you about to sell your car to a fellow service member? Then you might be interested to know that in both cases the sale/purchase will be subject to German law. Therefore, it's good to know what host nation law says on the subject of warranties and defects.

Even though verbal contracts are valid and fully enforceable in Germany, only a written agreement enables you to adequately prove the terms of the agreement and clarify each other's obligations under it. All terms should be reduced to writing and signed by the parties because written contracts are presumed to be correct, complete, and without binding oral (side) agreements.

The buyer should have the car thoroughly checked out and tested before the sale is concluded. The car should be inspected by a trustworthy independent third party, e.g., a garage. Passing inspection is hardly enough proof that the car will remain a reliable one since it does not say anything about the real condition of the car. It just shows that the car is doing fine at that one moment. A clause like "inspection guaranteed" means only that the seller has the duty - and the right - to place the car into such a condition that it passes inspection.

Normal wear and tear usually does not constitute a legally relevant defect, even if it impairs the function of a used car, unless the buyer demanded a clear, concrete and binding representation from the seller to the contrary. Therefore, the buyer should ask the seller for specific assurances, express warranties, or guarantees if a certain condition is important to him or her. It should all be put down in writing.

Normal wear and tear is determined by taking into consideration the age and condition of the car. In Germany the average total life span of a car is 10 years. At least after eight years, the rust problem is a significant danger for almost every car in Germany and, therefore, considered to be normal wear and tear.

Use common sense when looking for defects:

- ⇒ check the full maintenance history and mileage
- ⇒ a new baffle plate might be there to hide a defective muffler
- ⇒ check liquid levels and tightness of systems
- ⇒ uneven worn-out tires suggest bad alignment
- ⇒ paint film on window rubber or strips may indicate repair of accident damage
- ⇒ substantial stone chipping to the front area suggests high mileage
- ⇒ a turned on fan or open windows during a test drive can hide rattling or engine noise
- ⇒ rim flange scratches or spare tire damage proves curb contact leading to consequential damage
- ⇒ steering wheel judder and pulsating brake pedal indicate imbalance or braking discs problems



The private seller should make his intent to sell the used car "as is" and "with all faults" or "*Gebraucht wie besichtigt*" quite clear and give the buyer a fair chance to verify the condition of the car. That way both sides will know their risks and obligations. Note, if you are buying from a professional used car dealer, the car will come with a 1-year warranty. But that warranty is a very limited for it does not cover normal wear and tear or alleged misuse by the buyer. Therefore, the buyer is best advised to follow the above-stated rules in order to protect his interests.

If you have other legal questions related to selling/buying a car, make an appointment to see a legal assistance attorney by calling DSN 483-8848 or Civilian 0631-411-8848.